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STATUTORY INSTRUMENTS

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**1988 No. 2070**

**LIBRARIES**

**The Public Lending Right Scheme 1982  
(Commencement of Variations) Order 1988**

<i>Made</i>	- - - -	<i>24th November 1988</i>
<i>Laid before Parliament</i>		<i>1st December 1988</i> <i>22nd December</i>
<i>Coming into force</i>	- -	<i>1988</i>

Whereas the Public Lending Right Scheme 1982(1) (“the Scheme”) was brought into force on 14th June 1982;

Whereas the Scheme has been varied(2);

And whereas the Lord President of the Council has, after consultation with representatives of authors and library authorities and of others who appear likely to be affected, further varied the Scheme;

Now therefore, the Lord President of the Council, in exercise of the powers conferred by section 3(7) of the Public Lending Right Act 1979(3) and now vested in him(4), hereby makes the following Order:—

1. This Order may be cited as the Public Lending Right Scheme 1982 (Commencement of Variations) Order 1988.

2. The variations in the Public Lending Right Scheme 1982 which were made on the 24th November 1988 by the Lord President of the Council and are set out in Appendix 1 to this Order shall come into force on 22nd December 1988; and accordingly on and after that date that Scheme has effect as set out in Appendix 2 to this Order.

24th November 1988

*John Wakeham*  
Lord President of the Council

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(1) The Scheme is set out in the Appendix to S.I. 1982/719.  
(2) The variations were brought into force by S.I. 1983/480, 1688, 1984/1847, 1985/1581, 1986/2001, 2103, 1987/1908.  
(3) 1979 c. 10.  
(4) S.I. 1979/907, 1981/207, 1983/879, 1984/1814, 1986/600.

## APPENDIX 1

### VARIATIONS IN THE PUBLIC LENDING RIGHT SCHEME 1982 MADE BY THE LORD PRESIDENT OF THE COUNCIL ON 24th NOVEMBER 1988

1. The Arrangement of Scheme in the Public Lending Right Scheme 1982 (“the Scheme”) shall be varied as follows—

(a) by inserting between items 5 and 6 the following new item—

“**5A.** Posthumously eligible persons”;

(b) by inserting between items 6 and 7 the following new item—

“**6A.** Posthumously eligible books”;

(c) by inserting between items 9 and 10 the following new item—

“**9A.** Shares in Public Lending Right”;

(d) by inserting between items 14 and 15 the following new item—

“**14A.** Forms of application in respect of posthumously eligible books”;

(e) by inserting between items 17 and 18 the following new items—

“**17A.** Transitional provisions for translators, editors and compilers

**17B.** Application for first registration in respect of posthumously eligible books”;

(f) by deleting items 45 and 52 and the entry relating to Schedule 3; and

(g) by adding after the entry relating to Schedule 4 the following new entry—

“Schedule 5 Specified Countries”.

2. Article 2 of the Scheme shall be varied—

(a) by deleting the definition of “library”; and

(b) by inserting after the definition of “local library authority” the following definitions—

““posthumously eligible book” has the meaning assigned thereto by article 5A;

“posthumously eligible person” has the meaning assigned thereto by article 6A.”.

3. Article 4 of the Scheme shall be varied by substituting for paragraph (2) the following paragraph—

“(2) Notwithstanding paragraph (1), a person shall not be treated as an author of a book unless the fact that he is an author within the meaning of paragraph (1)—

(a) is evidenced by his being named on the title page of the book; or

(b) in the case of a person treated as an author by virtue of sub-paragraph (1)(a)(i), is evidenced as aforesaid or, if the translated text amounts to at least half of the book’s contents, by his being named on the cover or the title page verso of the book.”.

4. The following new article shall be inserted in the Scheme after article 5—

#### “**Posthumously eligible persons**

**5A.** For the purposes of the Scheme, and in relation to each application relating to a posthumously eligible book, an author who is dead is a posthumously eligible person if, had he been an applicant for first registration of Public Lending Right in relation to that book at the date of his death, he would have been an eligible person in accordance with article 5.”.

5. The following new article shall be inserted in the Scheme after article 6—

**“Posthumously eligible books**

**6A.** For the purposes of the Scheme, a book is a posthumously eligible book if—

- (a) it is a book within the meaning of article 6(2),
- (b) the sole author, or at least one of the authors, of the book is a posthumously eligible person, and
- (c) the book is either
  - (i) published within one year before or ten years after the date of that person’s death and that person had made a successful application during his lifetime for registration of Public Lending Right or of an eligible author’s share of the Right in respect of at least one other book, or
  - (ii) a book which consists of or incorporates a work of that person which had previously been the constituent of or incorporated in a book in relation to which that person had made such an application as aforesaid.”.

6. Article 9 of the Scheme shall be varied—

(a) by substituting for paragraph (1) the following paragraph—

“(1) Public Lending Right in respect of a book may, and may only, be registered if—

- (a) the book is an eligible book and application in that behalf is made in accordance with articles 14 and 17, or
- (b) the book is a posthumously eligible book and application in that behalf is made in accordance with articles 14A and 17B.”;

(b) in paragraph (2), by substituting for the words “as aforesaid” the words “in accordance with articles 14 and 17”;

(c) in paragraph (3) by deleting the words “and application in that behalf is made as aforesaid.”;

(d) by inserting after paragraph (3) the following new paragraph—

“(4) A posthumously eligible person’s share of the Public Lending Right in respect of a posthumously eligible book with two or more authors (including any who are not eligible persons) may, and may only, be registered on application made in accordance with articles 14A and 17B.”.

7. Article 9A of the Scheme shall be varied by substituting for paragraphs (4), (5) and (6) the following paragraphs—

“(4) An illustrator’s share of Public Lending Right in respect of a book, and each eligible person’s share of Public Lending Right in respect of a book with two or more authors (including any who are not eligible persons) none of whom is an illustrator, translator or editor or compiler, shall not exceed fifty per cent of that Right unless the Registrar is satisfied that any share exceeding fifty per cent which is specified in accordance with article 17(1)(c) in the application for first registration of the Right is reasonable in relation to that author’s contribution.

(5) Where a book has two or more authors (including any who are not eligible persons) and the Registrar is satisfied that one or more of them is dead or cannot be traced at the date of application despite all reasonable steps having been taken to do so, the Public Lending Right shall be apportioned amongst all the authors (including any who are not eligible persons)

- (a) by attributing to each author the same share of Public Lending Right as has been attributed to that author in respect of any other book by the same authors or, if there is more than one such other book, the most recent book by those authors in respect of which Public Lending Right has been registered, if the Registrar is satisfied that there has been no significant change in the respective contributions of the authors;
- (b) where sub-paragraph (a) does not apply, equally, subject to
  - (i) the prior application of paragraphs (2), (3) and (7), and
  - (ii) where the book is illustrated,
    - (aa) the attribution of twenty per cent of the Public Lending Right to the illustrator, or
    - (bb) if he satisfies the Registrar that he has contributed more than twenty per cent of the contents of the book, the attribution of the percentage equal to that percentage contribution, or
    - (cc) if there is more than one illustrator (including any who are not eligible persons), the attribution of an equal share of twenty per cent or the higher percentage attributable to illustrators in accordance with sub-paragraph (bb).

(6) Where paragraph 5(b)(ii) applies, an illustrator who is also an author of a book in another capacity shall, in addition to any share of Public Lending Right to which he is entitled under that sub-paragraph, be entitled to any further share of the Right which is attributable to him as author in that other capacity.

(7) Where all the persons (including the personal representatives of a posthumously eligible person) amongst whom the Public Lending Right would otherwise be apportioned equally in accordance with paragraph (5)(b) jointly notify the Registrar in writing that they wish the Right to be apportioned in a manner other than equally, the apportionment specified by them shall apply if the Registrar is satisfied that it is reasonable in that case.

(8) Where all the authors who are party to an application under article 17(1)(c) and who are entitled under paragraphs (2), (3), and 5(b)(ii) to a share of a percentage of Public Lending Rights in respect of the relevant book specify in accordance with article 17(1)(c) that the said percentage shall be apportioned in a manner other than that provided for by those paragraphs the specified apportionment shall apply if the Registrar is satisfied that it is reasonable in that case.”.

8. Article 14 of the Scheme shall be varied by inserting after the words “this Scheme” the words “other than an application required under article 14A”.

9. The following new article shall be inserted after article 14—

**“Forms of application in respect of posthumously eligible books**

**14A.** An application under article 17B for first registration of Public Lending Right, or of a posthumously eligible person’s share of the Right, in relation to a posthumously eligible book shall be made in writing to the Registrar and shall provide in such form as he may from time to time require

- (a) the information specified in paragraphs 1 to 4 of Part I of Schedule 1 other than the address specified in paragraph 4,
- (b) a statement signed by the personal representatives of the posthumously eligible person that the conditions as to eligibility specified in articles 5A and 6A are satisfied, and

- (c) in the case of a work by more than one author, a statement signed as aforesaid that the posthumously eligible person in relation to whom the application is being made was translator, editor or compiler or illustrator of the book and that the claim to Public Lending Right in respect thereof is limited to the percentage prescribed in article 9A(2), (3) or (5)(b)(ii) or that the other author, or one of the other authors, of the work is a translator and that the claim to Public Lending Right in respect thereof is limited to that share or to a share of that share to which the translator is not entitled,

and shall be accompanied, when the personal representatives have not previously made an application under article 17B in relation to that posthumously eligible person, by

- (i) the probate, letters of administration or confirmation of executors of the posthumously eligible person in relation to whom the application is being made, and
- (ii) a certificate signed by a Member of Parliament, Justice of the Peace, Minister of Religion, lawyer, bank officer, school teacher, police officer, doctor or other person accepted by the Registrar as being of similar standing and stating that he had known the posthumously eligible person in relation to whom the application is being made for at least two years before the date of his death, that he was not related to him and that to the best of his knowledge the contents of the statement referred to in sub-paragraph (b) are true.”.

10. Article 17 of the Scheme shall be varied by inserting after sub-paragraph (1)(c)(ii) the following sub-paragraph—

“or

- (iii) any author of the book who is not a party to the application is a translator and the application specifies that it relates only to that share of Public Lending Right in the book to which the translator is not entitled.”.

11. The following new article shall be inserted after article 17B—

**“Application for first registration in respect of posthumously eligible books**

**17B.** An application for first registration of Public Lending Right in respect of a posthumously eligible book and an application for first registration of a posthumously eligible person’s share of Public Lending Right in respect of such a book with two or more authors (including any who are not eligible persons)—

- (a) shall satisfy the requirements of article 14A and be made by delivery at the registry, and
- (b) shall be made by the personal representatives of the posthumously eligible person concerned.”.

12. Article 36 of the Scheme shall be varied:—

- (a) by inserting after the definition of “group” the following definition—

““library” has the meaning assigned to it by section 3(4) of the Act;”;

- (b) by inserting after the definition of “loans” the following definition—

““mobile library service point” means a service point which is taken about from place to place;”;

and

- (c) by substituting for the definition of “sampling point” the following definition—

““sampling point” means any principal service point, ordinary service point or mobile library service point which has been designated, for the time being, by the Registrar under article 38;”.

**13.** Article 38 of the Scheme shall be varied:—

(a) by substituting for paragraph (1) the following paragraph—

“(1) Such local library authorities as the Registrar may require shall, not later than 30th September in each year, furnish to the Registrar lists, as at 31st March of that year, of all their ordinary and principal service points and, in the case of local library authorities in the Counties of Dyfed and Gwynedd and the Districts of Colwyn and Glyndwr in the County of Clwyd, of all their mobile library service points. The Registrar shall, not later than 31st December of that year, designate in accordance with paragraph (6) those service points which are to be operative sampling points as from the beginning of the ensuing sampling year.”;

(b) by substituting for paragraph (2) the following paragraph—

“(2) The Registrar shall so exercise his powers under this article as to secure, subject to paragraph (4), that—

- (a) at all times there shall be 30 operative sampling points comprising—
  - (i) 5 points falling within each of Groups A and D in Schedule 2,
  - (ii) 4 points falling within each of Groups B, C and E in Schedule 2,
  - (iii) 3 points falling within each of Groups F and G in Schedule 2, and
  - (iv) 2 points falling within Group H in Schedule 2;
- (b) at all times the operative sampling points falling within each Group in Schedule 2 shall include, subject to paragraph (3), a principal service point and an ordinary service point;
- (c) at all times one of the 3 operative sampling points falling within Group F in Schedule 2 shall be within the County of Dyfed or that of Gwynedd or the Districts of Colwyn or Glyndwr in the County of Clwyd;
- (d) at all times one of the 3 operative sampling points falling within Group G in Schedule 2 shall be outside the Metropolitan Districts of Edinburgh and Glasgow;
- (e) no operative sampling point other than a point falling within the County of Dyfed or that of Gwynedd or the Districts of Colwyn or Glyndwr in the County of Clwyd shall be a mobile library service point;
- (f) with effect from the beginning of each sampling year at least 10 out of the 30 operative sampling points shall be replaced by new such points; and
- (g) no service point shall remain an operative sampling point for a continuous period of more than four years.”.

**14.** Article 42 of the Scheme shall be varied by substituting for paragraph (3) the following paragraph—

“(3) For the purposes of paragraph (2)

- (a) Groups A, B and C in Schedule 2 shall be treated as one group; and
- (b) if on any occasion on which any details of lendings at a particular sampling point furnished to the Registrar in accordance with article 40 record loans of a copy of a book in excess of an average of one loan for each period of five days covered by the details, the loans in excess of that average shall be disregarded.”.

**15.** Article 46 of the Scheme shall be varied—

- (a) in paragraph (1)(a) by substituting “1.45p” for “1.12p”;
- (b) in paragraph (2)(b) by substituting “£6,000” for “£5,000” in both places it appears; and
- (c) by substituting for paragraph (3) the following paragraph—

“(3) If the aggregate of the amounts determined in accordance with paragraph (2) in respect of each registered interest of the registered owner thereof is less than £1, the sum due in respect of the registered interest shall be nil.”.

**16.** Schedule 1 to the Scheme shall be varied in Part I by inserting after sub-paragraph 6(b) the following sub-paragraph—

“or

- (c) where one of the authors of the work is a translator, a statement signed by the other author or, if more than one, all the other authors who are alive and can be traced at the date of application specifying—
  - (i) that another author of the book who is not a party to the application is a translator,
  - (ii) that the claim to Public Lending Right in respect thereof is limited to that share to which the translator is not entitled, and
- (iii) where there is more than one author other than the translator
  - (aa) the agreed share of each such author in that share of the Public Lending Right to which the translator is not entitled, and
  - (bb) whether any such author is editor or compiler or, if any such author is dead or untraced at the date of application, illustrator of the book and, if so, whether he is also an author of the book in another capacity.”.

**17.** For Schedule 2 to the Scheme there shall be substituted the following Schedule—

“SCHEDULE 2

Articles 36—38

GROUPING SERVICE POINTS

**GROUP A**

Those within the areas of the following non-metropolitan counties—

Bedfordshire	Essex	Oxfordshire
Berkshire	Hertfordshire	Suffolk
Buckinghamshire	Kent	Surrey
Cambridgeshire	Norfolk	West Sussex
East Sussex	Northamptonshire	

**GROUP B**

Those within the areas of the following non-metropolitan counties—

Avon	Hampshire	Somerset
Cornwall	Hereford & Worcester	Staffordshire

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Devon	The Isle of Wight	Warwickshire
Dorset	The Isles of Scilly	Wiltshire
Gloucestershire	Shropshire	

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**GROUP C**

Those within the areas of the following non-metropolitan counties—

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Cheshire	Humberside	North Yorkshire
Cleveland	Lancashire	Nottinghamshire
Cumbria	Leicestershire	
Derbyshire	Lincolnshire	
Durham	Northumberland	

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**GROUP D**

Those within the areas of the metropolitan districts of England.

**GROUP E**

Those within the area of Greater London.

**GROUP F**

Those in Wales.

**GROUP G**

Those in Scotland.

**GROUP H**

Those in Northern Ireland.”.

APPENDIX 2

PUBLIC LENDING RIGHT SCHEME 1982  
PUBLIC LENDING RIGHT SCHEME 1982

PART I

TITLE AND INTERPRETATION

**Citation and extent**

1. This Scheme may be cited as the Public Lending Right Scheme 1982, and shall extend to the whole of the United Kingdom.



## General definitions

2.—(1) In this Scheme, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“the Act” means the Public Lending Right Act 1979(5);

“author”, in relation to an eligible book, means a person who is, or one of a number of persons who are, treated as such by article 4;

“eligible author”, in relation to an eligible book, means an author of that book who is an eligible person;

“eligible book” has the meaning assigned thereto by article 6;

“eligible person”, in relation to an author, has the meaning assigned thereto by article 5;

“financial year” means a period of twelve months ending on the 31st March;

“identifying number” means the number entered in the Register in pursuance of article 8(1)(a)(iv);

“local library authority” has the meaning assigned thereto by section 5(2) of the Act;

“posthumously eligible book” has the meaning assigned thereto by article 5A;

“posthumously eligible person” has the meaning assigned thereto by article 6A;

“the Registrar” and “the Register” have the meanings assigned thereto by section 5(2) of the Act;

“registered interest” means the interest (being the whole or a share thereof), in the Public Lending Right in respect of a particular book, shown on the Register as belonging to a particular person, and “registered owner” means the person for the time being so registered;

“the registry” means the place at which the Register is for the time being maintained in pursuance of article 7;

“sampling year” has the meaning assigned thereto by article 36.

(2) In this Scheme, except where the context otherwise requires, any reference to an article or to a Part or to a Schedule shall be construed as a reference to an article contained in, or to a Part of or a Schedule to, this Scheme, as the case may be, and any reference in any article to a paragraph shall be construed as a reference to a paragraph in that article.

## Delivery of documents and service of notice

3. Unless the context otherwise requires, any requirement in this Scheme for—

(a) a document or an application to be delivered at the registry or produced to the Registrar or for notice to be given to him, shall be satisfied if the same is either—

(i) delivered in person at the registry between the hours of 11 am and 3 pm on a working day; or

(ii) sent through the post by recorded delivery;

(b) a local library authority or a registered owner to be notified of any matter shall be satisfied if such notification is sent through the post.

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(5) 1979 c. 10.

## PART II

### BOOKS AND AUTHORS ELIGIBLE UNDER THE SCHEME

#### Authors

4.—(1) Subject to paragraph (2), a person shall be treated as an author of a book for the purpose of this Scheme if he is either—

- (a) a writer of the book, including without prejudice to the generality of that expression,
  - (i) a translator thereof, and
  - (ii) an editor or compiler thereof, who in either case has contributed more than ten per cent of the contents of the book or more than ten pages of the contents, whichever is the less; or
- (b) an illustrator thereof, which for this purpose includes the author of a photograph (within the meaning of section 48 of the Copyright Act 1956<sup>(6)</sup>).

(2) Notwithstanding paragraph (1), a person shall not be treated as an author of a book unless the fact that he is an author within the meaning of paragraph (1)—

- (a) is evidenced by his being named on the title page of the book; or
- (b) in the case of a person treated as an author by virtue of sub-paragraph (1)(a)(i), is evidenced as aforesaid or, if the translated text amounts to at least half of the book's contents, by his being named on the cover or the title page verso of the book.

#### Eligible persons

5.—(1) For the purposes of the Scheme, and in relation to each application by a person relating to an eligible book, the applicant is an eligible person if he is an author (within the meaning of article 4) of that book who at the date of the application has his only or principal home in one of the countries specified in Schedule 5, or, if he has no home, has been present in one of those countries for not less than twelve months out of the preceding twenty-four months.

(2) In this Article “principal home”, in the case of a person having more than one home means that one of those homes at which he has been for the longest aggregate period during the twenty-four months immediately preceding the application for registration.

#### Posthumously eligible persons

5A. For the purposes of the Scheme, and in relation to each application relating to a posthumously eligible book, an author who is dead is a posthumously eligible person if, had he been an applicant for first registration of Public Lending Right in relation to that book at the date of his death, he would have been an eligible person in accordance with article 5.

#### Eligible books

6.—(1) For the purposes of this Scheme, an eligible book is a book (as defined in paragraph (2)) the sole author, or at least one of the authors, of which is an eligible person; and there shall be treated as a separate book—

- (a) each volume of a work published in two or more volumes, and
- (b) each new edition of a book.

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(6) 1956 c. 74.

(2) In paragraph (1) “book” means a printed and bound publication (including a paper-back edition) but does not include—

- (a) a book bearing, in lieu of the name of an author who is a natural person, the name of a body corporate or an unincorporated association;
- (b) a book with four or more authors, but for the purpose of this sub-paragraph a translator, editor or compiler shall not be treated as an author of the book unless each of his co-authors is a translator, editor or compiler,
- (c) a book which is wholly or mainly a musical score;
- (d) a book the copyright of which is vested in the Crown;
- (e) a book which has not been offered for sale to the public; or
- (f) a serial publication including, without prejudice to the generality of that expression, a newspaper, magazine, journal or periodical.

### **Posthumously eligible books**

**6A.** For the purposes of the Scheme, a book is a posthumously eligible book if—

- (a) it is a book within the meaning of article 6(2),
- (b) the sole author, or at least one of the authors, of the book is a posthumously eligible person, and
- (c) the book is either
  - (i) published within one year before or ten years after the date of that person’s death and that person had made a successful application during his lifetime for registration of Public Lending Right or of an eligible author’s share of the Right in respect of at least one other book, or
  - (ii) a book which consists of or incorporates a work of that person which had previously been the constituent of or incorporated in a book in relation to which that person had made such an application as aforesaid.

## **PART III**

### **REGISTRATION OF PUBLIC LENDING RIGHT**

#### **THE REGISTER**

#### **The Register**

7. The Registrar shall establish and maintain a Public Lending Right Register at such place as the Secretary of State may from time to time determine, and upon each such determination notice shall be published in the London Gazette, the Edinburgh Gazette and the Belfast Gazette, of such place and the time of the commencement of registration thereat.

#### **The content of the Register**

8.—(1) The Register shall contain—

- (a) particulars of each book in respect of which Public Lending Right subsists, including—
  - (i) the title of the book;
  - (ii) the name or names of the persons appearing on the title page as the authors thereof;

- (iii) the true identity of an author if different from (ii) above;
  - (iv) a number for that book, determined by, or in accordance with arrangements made by, the Registrar;
- (b) the name and address of each person entitled to the Right in respect of each such book and, if more than one, the share of each such person in such Right.
- (2) The Registrar shall also keep at the registry an index whereby all entries in the Register can readily be traced, and for this purpose “index” includes any device or combination of devices serving the purpose of an index.

### **Registration**

- 9.—(1) Public Lending Right in respect of a book may, and may only, be registered if—
- (a) the book is an eligible book and application in that behalf is made in accordance with articles 14 and 17, or
  - (b) the book is a posthumously eligible book and application in that behalf is made in accordance with articles 14A and 17B.
- (2) Subject to paragraph (3), an eligible author’s share of the Public Lending Right in respect of an eligible book with two or more authors (including any who are not eligible persons) may, and may only, be registered on application in that behalf made in accordance with articles 14 and 17.
- (3) The share of the Public Lending Right in such a book as is mentioned in paragraph (2) of an author who was not an eligible person at the time when application was first made for the registration of the share of the Right of any co-author may, and may only, be registered if—
- (a) he has become and remains an eligible person, and
  - (b) application in that behalf is made in accordance with Articles 14 and 17.
- (4) A posthumously eligible person’s share of the Public Lending Right in respect of a posthumously eligible book with two or more authors (including any who are not eligible persons) may, and may only, be registered on application made in accordance with articles 14A and 17B.

### **Shares in Public Lending Right**

- 9A.—(1) Subject to the following paragraphs an eligible person’s registered share of Public Lending Right in respect of a book of which he is author shall be the whole of that Right or, where a book has two or more authors (including any who are not eligible persons), such share of the Public Lending Right as may be specified in accordance with article 17(1)(c) in the application for first registration of the Right.
- (2) A translator’s share of Public Lending Right in respect of a book shall be thirty per cent of that Right, or if there is more than one translator (including any who are not eligible persons), an equal share of thirty per cent, but this paragraph shall not apply where a translator is an author of the book in another capacity unless he makes an application in accordance with article 17(1)(c)(ii).
- (3) An editor’s or compiler’s share of Public Lending Right in respect of a book shall be
- (a) twenty per cent of that Right, or
  - (b) if he satisfies the Registrar that he has contributed more than twenty per cent of the contents of the book, the percentage equal to that percentage contribution, or
  - (c) if there is more than one editor or compiler (including any who are not eligible persons), an equal share of twenty per cent or the higher percentage attributable to the editors or compilers in accordance with sub-paragraph (b).

(4) An illustrator's share of Public Lending Right in respect of a book, and each eligible person's share of Public Lending Right in respect of a book with two or more authors (including any who are not eligible persons) none of whom is an illustrator, translator or editor or compiler, shall not exceed fifty per cent of that Right unless the Registrar is satisfied that any share exceeding fifty per cent which is specified in accordance with article 17(1)(c) in the application for first registration of the Right is reasonable in relation to that author's contribution.

(5) Where a book has two or more authors (including any who are not eligible persons) and the Registrar is satisfied that one or more of them is dead or cannot be traced at the date of application despite all reasonable steps having been taken to do so, the Public Lending Right shall be apportioned amongst all the authors (including any who are not eligible persons)

- (a) by attributing to each author the same share of Public Lending Right as has been attributed to that author in respect of any other book by the same authors or, if there is more than one such other book, the most recent book by those authors in respect of which Public Lending Right has been registered, if the Registrar is satisfied that there has been no significant change in the respective contributions of the authors;
- (b) where sub-paragraph (a) does not apply, equally, subject to
  - (i) the prior application of paragraphs (2), (3) and (7), and
  - (ii) where the book is illustrated,
    - (aa) the attribution of twenty per cent of the Public Lending Right to the illustrator, or
    - (bb) if he satisfies the Registrar that he has contributed more than twenty per cent of the contents of the book, the attribution of the percentage equal to that percentage contribution, or
    - (cc) if there is more than one illustrator (including any who are not eligible persons), the attribution of an equal share of twenty per cent or the higher percentage attributable to illustrators in accordance with sub-paragraph (bb).

(6) Where paragraph 5(b)(ii) applies an illustrator who is also an author of a book in another capacity shall, in addition to any share of Public Lending Right to which he is entitled under that sub-paragraph, be entitled to any further share of the Right which is attributable to him as author in that other capacity.

(7) Where all the persons (including the personal representatives of a posthumously eligible person) amongst whom the Public Lending Right would otherwise be apportioned equally in accordance with paragraph (5)(b) jointly notify the Registrar in writing that they wish the Right to be apportioned in a manner other than equally, the apportionment specified by them shall apply if the Registrar is satisfied that it is reasonable in that case.

(8) Where all the authors who are party to an application under article 17(1)(c) and who are entitled under paragraphs (2), (3), and 5(b)(ii) to a share of a percentage of Public Lending Rights in respect of the relevant book specify in accordance with article 17(1)(c) that the said percentage shall be apportioned in a manner other than that provided for by those paragraphs the specified apportionment shall apply if the Registrar is satisfied that it is reasonable in that case.

### **Dealings to be effected only on the Register**

**10.** No Public Lending Right in respect of a particular book shall subsist and no transmission of a registered interest shall be effective until such Right or such transmission has been entered in the Register by the Registrar.

### **Register to be conclusive**

**11.** The Register shall be conclusive as to whether Public Lending Right subsists in respect of a particular book and also as to the persons (if any) who are for the time being entitled to the Right.

### **Amendment of the Register**

**12.** The Register may be amended pursuant to an Order of a Court of competent jurisdiction or by the decision of the Registrar in any of the following cases—

- (a) in any case and at any time with the consent of the registered owner or owners of the Right in respect of a particular book;
- (b) where a Court of competent jurisdiction or the Registrar is satisfied that an entry in the Register has been obtained by fraud;
- (c) where a decision of a Court of competent jurisdiction affects any interest in an eligible book and, in consequence thereof, the Registrar is of the opinion that amendment of the Register is required;
- (d) where two or more persons are erroneously registered as being entitled to the same interest in Public Lending Right in respect of a particular book;
- (e) where an entry erroneously relates to a book which is not an eligible book;
- (f) in any other case where by reason of any error or omission in the Register, or by reason of any entry made under a mistake, it appears to the Registrar just to amend the Register.

### **Payments consequent upon amendment**

**13.** The person who, as a result of an amendment of the Register pursuant to article 12 or 17A, becomes the registered owner of a registered interest shall be entitled to the payment of Public Lending Right in respect of that interest from the date upon which the Register was amended.

## **PROCEDURE FOR REGISTRATION**

### **Forms of application**

**14.** Any application required under this Scheme other than an application required under article 14A—

- (a) for first registration of Public Lending Right or of an eligible author's share of the Right;
- (b) for the transfer of a registered interest, or
- (c) for renunciation of a registered interest,

shall be made in writing to the Registrar and provide the information specified in Part I, II or III of Schedule 1 (as the case may be) in such form as he may from time to time require.

### **Forms of application in respect of posthumously eligible books**

**14A.** An application under article 17B for first registration of Public Lending Right, or of a posthumously eligible person's share of the Right, in relation to a posthumously eligible book shall be made in writing to the Registrar and shall provide in such form as he may from time to time require

- (a) the information specified in paragraphs 1 to 4 of Part I of Schedule 1 other than the address specified in paragraph 4,
- (b) a statement signed by the personal representatives of the posthumously eligible person that the conditions as to eligibility specified in articles 5A and 6A are satisfied, and

- (c) in the case of a work by more than one author, a statement signed as aforesaid that the posthumously eligible person in relation to whom the application is being made was translator, editor or compiler or illustrator of the book and that the claim to Public Lending Right in respect thereof is limited to the percentage prescribed in article 9A(2), (3) or (5) (b)(ii) or that the other author, or one of the other authors, of the work is a translator and that the claim to Public Lending Right in respect thereof is limited to that share or to a share of that share to which the translator is not entitled,

and shall be accompanied, when the personal representatives have not previously made an application under article 17B in relation to that posthumously eligible person, by

- (i) the probate, letters of administration or confirmation of executors of the posthumously eligible person in relation to whom the application is being made, and
- (ii) a certificate signed by a Member of Parliament, Justice of the Peace, Minister of Religion, lawyer, bank officer, school teacher, police officer, doctor or other person accepted by the Registrar as being of similar standing and stating that he had known the posthumously eligible person in relation to whom the application is being made for at least two years before the date of his death, that he was not related to him and that to the best of his knowledge the contents of the statement referred to in sub-paragraph (b) are true.

### **Recording of receipt of applicaton**

15. The Registrar shall record the date upon which each application for first registration is received by him.

### **Completion of registration**

16.—(1) When the Registrar is satisfied as to the eligibility of a book for registration and as to the persons entitled to Public Lending Right in respect of that book and, if more than one, of their respective shares therein, the registration shall be completed and, as regards a first registration of the Right, each registration shall be effective as from the day the application was recorded by the Registrar as having been received by him.

(2) On completion of a registration the Registrar shall issue to any person so entered in the Register as having an interest in the Public Lending Right in respect of the book to which the entry relates, an acknowledgement of registration in the form of a copy of the relevant entry, indicating therein the date from which the entry takes effect.

## FIRST REGISTRATION

### **Application for first registration**

17.—(1) An application for first registration of Public Lending Right in respect of an eligible book—

- (a) shall satisfy the requirements of article 14 and be made by delivery at the registry;
- (b) shall be made by an eligible author, and
- (c) where the book has two or more authors (including any who are not eligible persons), shall specify the proposed shares of each of them and for that purpose each of those authors who is alive at the date of application shall be a party to the application, unless
  - (i) the Registrar is satisfied that he cannot be traced, despite all reasonable steps having been taken to do so, or

- (ii) the application is made by the translator or editor or compiler of the book and he specifies that he is making the application only in his capacity as such,
- (iii) any author of the book who is not a party to the application is a translator and the application specifies that it relates only to that share of Public Lending Right in the book to which the translator is not entitled.

(2) An application for first registration of an eligible author's share of Public Lending Right in respect of an eligible book with two or more authors (including any who are not eligible persons)—

- (a) shall satisfy the requirements of article 14 and be made by delivery at the registry, and
- (b) shall be made by the author concerned.

(3) Anything which falls to be done by an author under this article shall, if he is not of full age, be done by his parent or guardian and that parent or guardian shall be recorded in the Register as the person to whom are payable sums in respect of any registered interest of the author until such time as a transfer of the registration into the author's own name has been recorded in pursuance of article 25.

#### **Transitional provisions for translators, editors and compilers**

**17A.**—(1) Where an application for first registration of Public Lending Right in respect of a book was made before 28th December 1984 and a translator, editor or compiler thereof would have been party to the said application if it had been made on or after that date he may, if he is an eligible person, make an application for the registered shares of the Right to be revised.

(2) Subject to the following paragraphs, the provisions of this Scheme shall apply to an application under paragraph (1) as though it were an application for first registration of Public Lending Right.

(3) Where a successful application is made under paragraph (1)—

- (a) the applicant's share of the Public Lending Right shall be that prescribed in article 9A(2) or (3) as the case may be, and
- (b) the relevant shares of his co-authors, one to another, shall remain unaltered, unless all the authors who were party to the original application before 28th December 1984 are party to the application under paragraph (1) and specify an apportionment of their shares in a different manner and the Registrar is satisfied that such apportionment is reasonable.

(4) Where a successful application is made in accordance with paragraph (1) the Registrar shall amend the Register accordingly.

#### **Application for first registration in respect of posthumously eligible books**

**17B.** An application for first registration of Public Lending Right in respect of a posthumously eligible book and an application for first registration of a posthumously eligible person's share of Public Lending Right in respect of such a book with two or more authors (including any who are not eligible persons)—

- (a) shall satisfy the requirements of article 14A and be made by delivery at the registry, and
- (b) shall be made by the personal representatives of the posthumously eligible person concerned.

#### **Evidence required in connection with the applications**

**18.** The Registrar may require the submission of evidence to satisfy him that—

- (a) a book is an eligible book,



- (b) a person applying as author for the first registration of Public Lending Right, or the registration of a share of the Right, is in fact the author of that book and is an eligible person, or
- (c) that any co-author who is not a party to an application for first registration of Public Lending Right is dead or cannot be traced despite all reasonable steps having been taken to do so,

and may for the purpose of obtaining any such evidence require a statutory declaration to be made by any person.

## SUBSEQUENT DEALINGS WITH PUBLIC LENDING RIGHT

### **Public Lending Right to be transmissible**

19. A registered interest shall be transmissible by assignment or assignation, by testamentary disposition or by operation of law, as personal or movable property, so long, as regards a particular book, as the Right in respect of that book is capable of subsisting.

### **Period during which the Right may be transferred**

20. The duration of Public Lending Right in respect of any book and the period during which there may be dealings therein shall be from the date of the book's first publication (or, if later, the beginning of the sampling year in which application is made for it to be registered) until fifty years have elapsed since the end of the sampling year in which the author died or, if the book is registered as the work of more than one author, as regards dealings in the share of the Right attributable to that author, the end of the year in which that author died.

### **Whole interest to be assigned**

21.—(1) The disposition of Public Lending Right, after the first registration thereof, shall, as respects each registered interest in any book, be for the whole of that interest.

(2) On such disposition the interest may be registered in the name of joint owners, being not more than four in number and all being of full age, but in such case the senior only shall be deemed, for the purposes of the Scheme, to be the registered owner; seniority shall be determined by the order in which names stand in the Register.

(3) Subject to articles 29 and 30, no notice of any trusts, expressed, implied or constructive, shall be entered on the Register or be receivable by the Registrar.

### **Applications for transfer**

22. Every application for registration of a transfer of Public Lending Right shall satisfy the requirements of article 14 and be made by delivery at the registry.

### **Stamp duty**

23.—(1) An application for transfer shall bear the proper Inland Revenue stamp impressed thereon to show that all duty payable (if any) in respect of the transaction has been paid.

(2) Where an application for transfer is submitted for the purpose of giving effect to a transaction under a deed or other instrument on which the Inland Revenue stamp has already been impressed, such stamped instrument shall, before completion of the registration, be produced to the Registrar to show that all duty payable (if any) in respect of the transaction has been paid.

### **Proof of author's existence**

24. It shall be a condition of registration of every transfer that the transferee provides, and gives an undertaking to the Registrar in future to provide at such intervals and in such form as the Registrar may require, evidence that the author is still alive, or, as the case may be, evidence of the author's death.

### **Registration by an author on attainment of full age**

25. An author whose interest is, pursuant to article 17(3), registered in the name of his parent or guardian may, on attaining full age, make application to the Registrar in accordance with articles 21 to 23, so far as they are applicable, for the transfer of the registration of the Right into his own name, and until such transfer has been recorded the Registrar shall be entitled to remit any sums due in respect of the Right to such parent or guardian.

## TRANSMISSION ON DEATH

### **Registration of personal representatives**

26. On production of the probate, letters of administration, or confirmation of executors of a registered owner, the personal representatives named in such probate, letters or confirmation shall, on production of the same to the Registrar, be registered as owner in place of the deceased owner with the addition of the words "executor or executrix (or administrator or administratrix) of [name] deceased".

### **Transfer by personal representatives**

27. The personal representatives registered under the preceding article may transfer the interest of the deceased owner, such transfer being in accordance with articles 21 to 24 or such provisions thereof as are applicable in the circumstances of the case.

## TRANSFER ON BANKRUPTCY, LIQUIDATION OR SEQUESTRATION

### **Registration of Official Receiver, Official Assignees or Judicial Factor**

28.—(1) On the production to the Registrar of an office copy of an Order of a Court having jurisdiction in bankruptcy adjudging a registered owner bankrupt or directing the estate of a deceased registered owner to be administered in accordance with an order under section 421 of the Insolvency Act 1986(7) or section 21 of the Bankruptcy Amendment Act (Northern Ireland) 1929(8), together with a certificate signed by the Official Receiver or Official Assignee, as the case may be, that any registered interest in the name of the bankrupt registered owner, or deceased registered owner, is part of his property divisible amongst his creditors, the Official Receiver or the Official Assignee may be registered as the registered owner in place of the bankrupt or deceased registered owner.

(2) Where there is produced to the Registrar a certified copy of an Order of a Court having competent jurisdiction in Scotland awarding sequestration of the estate of a registered owner (including a deceased registered owner) and appointing a judicial factor the Registrar shall on receipt of such a copy enter in the Register the name of the judicial factor as registered owner with the addition of the words "judicial factor in the estate of [name]".

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(7) 1986 c. 45.

(8) 1929 c. 1 (N.I.).

### **Registration of Trustee in Bankruptcy in place of Official Receiver, Assignees in Bankruptcy or Judicial Factor**

29.—(1) Where the Official Receiver or the Official Assignee has been registered as registered owner and some other person is subsequently appointed trustee, or, in Northern Ireland, a creditor's assignee is appointed, the trustee or the assignee may be registered as registered owner in place of the Official Receiver, or the Official Assignee, on production of an office copy of the certificate by the Department of Trade of his appointment as trustee, or in Northern Ireland an office copy of the certificate under section 90 of the Bankruptcy (Ireland) Amendment Act 1872<sup>(9)</sup> or of the certificate of the vesting of the estate and effects of the registered owner in the assignee.

(2) Where a judicial factor has been registered as an owner in terms of article 28(2) and some other person is subsequently elected as a trustee for behoof of the creditors of the former registered owner, the Registrar, on receipt of the notification of such election and of sufficient evidence to demonstrate that that person has been so elected, shall enter in the Register the name of the trustee as registered owner with the addition of the words “trustee in the estate of[name]”.

(3) If the Official Receiver or the Official Assignee has not been entered on the Register under article 28(1) the trustee or the assignee may be registered as registered owner on production of office copies of the Order adjudging the registered owner bankrupt and the appropriate certificate referred to in paragraph (1) with a certificate signed by the trustee or the assignee that the registered interest is part of the property of the bankrupt divisible amongst his creditors.

(4) If a judicial factor has not been entered in the Register as owner under article 28(2) the Registrar shall, on receipt of the certified copy of an Order of a Court under article 28(2) together with the notification and evidence referred to in paragraph (2), enter in the Register as registered owner the name of the duly elected trustee with the addition of the words “trustee in the estate of[name]”.

### **Registration of a trust under a Scheme of Arrangement or an Arrangement under the control of the Court**

30.—(1) If any registered interest is vested in a trustee under the provisions of a Scheme of Arrangement approved by a Court having jurisdiction in bankruptcy, the Official Receiver or other trustee may be registered as owner in like manner as a trustee in bankruptcy upon production of an office copy of the Scheme of Arrangement, a certificate signed by the Official Receiver, or such other trustee, that the registered interest was part of the property vested in him under the provisions of the Scheme, and in the case of a trustee other than the Official Receiver, an office copy of the certificate by the Department of Trade of his appointment as trustee.

(2) If any registered interest of an arranging debtor who is a registered owner is vested in the Official Assignee alone or jointly with other persons under section 349 of the Irish Bankrupt and Insolvent Act 1857<sup>(10)</sup>, the Official Assignee and such other persons (if any) may be registered as owner in his place on production of an office copy of the Order of the Court approving and confirming the resolution or agreement referred to in the said section with a certificate by the Official Assignee identifying the arranging debtor named in the Order of the Court with the registered owner endorsed thereon and a certificate signed by the Official Assignee and other such person (if any) that the registered interest was part of the property vested under the resolution or agreement.

(3) If, as regards Scotland, a registered owner—

- (a) has entered into a deed of arrangement for behoof of his creditors, the Registrar shall, on receiving a certified copy of the Order of the Court approving such arrangement, enter on the Register as owner the name of the person who is under the said deed of arrangement to receive any payments due to the owner (where that person is not the registered owner at the date of approval of the arrangement);

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<sup>(9)</sup> 1872 c. 58.

<sup>(10)</sup> 1857 c. 60.

- (b) has entered into a private trust deed or composition contract for behoof of his creditors, the trustee under such deed or contract may make an application, accompanied by such evidence as the Registrar may require, for transmission of the registered interest into his name as such trustee; and on receipt of such an application the Registrar shall make the appropriate entry in the Register.

### **Liquidation of a company**

**31.** In the liquidation of a company in which an interest in Public Lending Right is vested, any resolution or order appointing a liquidator may be filed and referred to on the Register, and, when so registered, shall be deemed to be in force until it is cancelled or superseded on the Register.

### **Renunciation**

**32.—(1)** On making application in that behalf which satisfies the requirements of article 14, the registered owner of a registered interest may absolutely and unconditionally renounce that interest as provided in paragraph (2).

(2) Such renunciation may, as to extent, be in respect of either the whole or a half share of the registered interest and may be effective for all time, or in respect of such financial years as shall be specified by the registered owner.

(3) An application for renunciation shall bear the proper Inland Revenue stamp impressed thereon.

(4) The Registrar shall as at the date from which the renunciation is to have effect amend the Register—

- (a) in the case of a renunciation for all time of the whole of the registered interest by removing from the Register the entry relating to the registered owner and, if that interest represents the whole of the Public Lending Right in a book, the entry relating to that book; or
- (b) in all other cases, by noting against the relevant entry in the Register the extent of the renunciation and the period during which it is effective.

(5) Immediately upon the amendment of the Register as provided in paragraph (4), any sum due by way of Public Lending Right which, apart from the renunciation would become payable to the registered owner by 31st March in any year falling within the period to which the renunciation applies, shall cease to be so payable.

## **GENERAL**

### **Neglected applications for registration**

**33.** Where in the case of any application for first or any subsequent registration an applicant has failed to provide within three months information requested by the Registrar, notice may be given to the applicant that the application will be treated as abandoned unless the information is duly furnished within a time (not being less than one month) determined by the Registrar and specified in the notice; and if, at the expiration of that time, the information so requested is not furnished, the application may be treated as abandoned.

### **Removal of entries from the Register**

**34.** Where the Registrar, pursuant to section 4(5) of the Act, directs the removal from the Register of any entry relating to a book in whose case no sum has become due by way of Public Lending Right for a period of at least ten years, any subsequent application for the entry to be restored to

the Register may be made only by the person who, at the date of the removal of the entry, was the registered owner, or by his legal personal representatives.

### **Copies of entries in the Register**

- 35.**—(1) The Registrar shall not supply a copy of any entry in the Register otherwise than to—
- (a) a registered owner, as regards any entry which relates to his registered interest; or
  - (b) such other person as the registered owner may direct, but if the entry in question also relates to other registered owners, only with the consent of all such owners.
- (2) The Registrar may require a payment of a fee for supplying a copy of an entry in the Register, not exceeding £5 in respect of each such entry.

## **PART IV**

### **ASCERTAINMENT OF THE NUMBER OF LOANS OF BOOKS**

#### **Special definitions**

**36.** In this Part, unless the context otherwise requires—

“copy” means an individual copy of a particular book, and “copy number” means a number which distinguishes the copy to which it is applied from other copies of the same book in the same library;

“group”, in relation to service points, means a group specified in Schedule 2;

“library” has the meaning assigned to it by section 3(4) of the Act;

“loans” means loans whereby books are lent out from a service point to individual borrowers, and includes loans of books not normally held at that service point;

“mobile library service point” means a service point which is taken about from place to place;

“month” means one of the twelve months in the calendar year;

“operative sampling point” means a sampling point at which loans are for the time being required to be recorded in pursuance of article 40(1);

“ordinary service point” means a service point from which fewer than 500,000 loans were made during the preceding period of twelve months;

“participating period”, in relation to a sampling point, means the period commencing on the date on which the local library authority having responsibility for it receives from the Registrar notice of designation pursuant to article 38(6) and ending on the date specified in a notice given thereunder as the date upon which it is to cease to act as a sampling point;

“principal service point”, in relation to a library authority, means any of the following—

- (a) whichever of the service points for which that authority is responsible is the service point from which the greatest number of loans were made during the preceding period of twelve months;
- (b) any service point for which that authority is responsible, the number of loans from which during the preceding period of twelve months was not less than three-quarters of the number of loans made from the service point referred to in sub-paragraph (a) during the same period;
- (c) any other such service point from which 500,000 or more loans were made during the aforesaid period;

and “principal service points” means every service point which is a principal service point in relation to any library authority;

“sampling point” means any principal service point, ordinary service point or mobile library service point which has been designated, for the time being, by the Registrar under article 38;

“sampling year” means the period of twelve months ending on 30th June;

“service point” means a place from which books comprised in a library are lent out to the public at large.

### **Number of loans to be ascertained by means of a sample**

**37.** The number of occasions on which a book is lent out shall be determined by means of a sample of the lendings of that book from particular service points, designated in accordance with the provisions of this Part; and for the purpose of the sample, service points shall be classified into the groups, according to local library authority areas, specified in Schedule 2.

### **Designation of sampling points**

**38.—**(1) Such local library authorities as the Registrar may require shall, not later than 30th September in each year, furnish to the Registrar lists, as at 31st March of that year, of all their ordinary and principal service points and, in the case of local library authorities in the Counties of Dyfed and Gwynedd and the Districts of Colwyn and Glyndwr in the County of Clwyd, of all their mobile library service points. The Registrar shall, not later than 31st December of that year, designate in accordance with paragraph (6) those service points which are to be operative sampling points as from the beginning of the ensuing sampling year.

(2) The Registrar shall so exercise his powers under this article as to secure, subject to paragraph (4), that—

- (a) at all times there shall be 30 operative sampling points comprising—
  - (i) 5 points falling within each of Groups A and D in Schedule 2,
  - (ii) 4 points falling within each of Groups B, C and E in Schedule 2,
  - (iii) 3 points falling within each of Groups F and G in Schedule 2, and
  - (iv) 2 points falling within Group H in Schedule 2;
- (b) at all times the operative sampling points falling within each Group in Schedule 2 shall include, subject to paragraph (3), a principal service point and an ordinary service point;
- (c) at all times one of the 3 operative sampling points falling within Group F in Schedule 2 shall be within the County of Dyfed or that of Gwynedd or the Districts of Colwyn or Glyndwr in the County of Clwyd;
- (d) at all times one of the 3 operative sampling points falling within Group G in Schedule 2 shall be outside the Metropolitan Districts of Edinburgh and Glasgow;
- (e) no operative sampling point other than a point falling within the County of Dyfed or that of Gwynedd or the Districts of Colwyn or Glyndwr in the County of Clwyd shall be a mobile library service point;
- (f) with effect from the beginning of each sampling year at least 10 out of the 30 operative sampling points shall be replaced by new such points; and
- (g) no service point shall remain an operative sampling point for a continuous period of more than four years.

(3) The relevant local library authority shall notify the Registrar of any change in the categorisation of a sampling point as a principal or ordinary service point but the Registrar shall

not be required by paragraph (2)(a) to discontinue the designation of the point as a sampling point before the expiry of the sampling year in which he receives such notice or, if that year has less than six months to run, before the expiry of the next following sampling year.

For the purposes of this paragraph and of paragraph (2)(a), a change in the categorisation of a sampling point shall be disregarded if it is occasioned by an increase or decrease of less than 10 per cent in the number of loans made therefrom.

(4) The local library authority shall notify the Registrar of any decision to close a sampling point and the date on which the closure takes effect but, if it is not reasonably practicable for the Registrar to satisfy the requirements of paragraph (2) before the closure takes effect, those requirements shall be treated as satisfied if satisfied as soon as is reasonably practicable thereafter.

(5) If it appears to the Registrar that an accurate sample would thereby be obtained more effectively, he may with effect from the beginning of the next sampling year, replace an existing sampling point by a new point, by designating such new sampling point in accordance with paragraphs (2) and (6), and by notifying the local library authority responsible that the existing sampling point is to be discontinued.

(6) The Registrar shall give to the local library authority responsible for a sampling point—

- (a) for the purposes of designating that point under paragraph (1), notice in writing of such designation specifying the period he intends the point to be an operative sampling point;
- (b) for the purpose of discontinuing that point as a sampling point, not less than six months notice in writing of such discontinuance.

#### **Provision by libraries of recording facilities**

**39.** Upon receipt of a notice under article 38(6)(a) a local library authority shall—

- (a) arrange for every book which may be lent out from the sampling point to which the designation refers to be marked, in such form as the Registrar may require, with its identifying number and (where more than one copy may be lent out) copy number, and shall notify the Registrar at such time and in such manner as he may direct of the number of books so marked; and
- (b) acquire, in accordance with arrangements approved by the Registrar, such equipment (including computer programs) as may be necessary to enable the authority to comply with the provision of article 40 regarding the furnishing of information to the Registrar.

#### **Duty to record lendings**

**40.**—(1) A local library authority which has received a notice under article 38(6)(a) shall, for such period as is specified in the notice, record every occasion on which a copy of a book is lent out to the public from the sampling point to which the notice refers and shall furnish to the Registrar, in such form and at such intervals as he may direct, details of such lendings, including the identifying number and any copy number of the copy in question.

(2) For the purpose of this article each volume of a work published in two or more volumes shall be treated as a separate book.

#### **Provision of book loan data**

**41.** Each local library authority shall submit to the Registrar, in such form, at such intervals and in respect of such periods as he may direct, a return of the total number of occasions on which the books comprised in all its collections were the subject of loans.

### **Method of determining the number of notional loans**

**42.**—(1) The Registrar shall, from the details of loans furnished to him by local library authorities pursuant to the provisions of this Part (upon the accuracy of which the Registrar shall be entitled to rely), calculate, in accordance with paragraph (2), the number of notional loans of each book in respect of which Public Lending Right subsists in each sampling year.

(2) The number of notional loans of each book made during a sampling year shall be the aggregate of the number of national loans of that book made in all groups; and the number of notional loans for a group shall be determined in accordance with the following formula:—

$$\text{Total notional loans in the group} = \frac{A}{B} \times C$$

Where—

A represents the number of loans of that book recorded during the sampling year at the operative sampling points in that group;

B represents the total number of loans of books made to the public during the sampling year from the operative sampling point in that group; and

C represents the aggregate of the loans of all books made to the public from all libraries (within the meaning of section 3(4) of the Act) in the area of the group during the financial year ending in the sampling year in question, or, as regards any particular library for which loan data relating to that financial year is not available to the Registrar, the most recent financial year for which he has such data.

(3) For the purposes of paragraph (2)

(a) Groups A, B and C in Schedule 2 shall be treated as one group; and

(b) if on any occasion on which any details of lendings at a particular sampling point furnished to the Registrar in accordance with article 40 record loans of a copy of a book in excess of an average of one loan for each period of five days covered by the details, the loans in excess of that average shall be disregarded.

### **Reimbursement of local library authorities**

**43.**—(1) The Registrar shall, subject to the provisions of this article and article 44, reimburse to local library authorities the net expenditure incurred by them in giving effect to this Scheme.

(2) It shall be the duty of local library authorities to keep proper accounts and records in respect of the expenditure (including overhead expenses) incurred by them in giving effect to this Scheme and the Registrar may withhold payment to a local library authority, in whole or in part, until such time as such authority has furnished to him sufficient evidence as to the amount of the expenditure so incurred.

### **Expense incurred in respect of sampling points**

**44.**—(1) Without prejudice to the generality of article 43(2) each local library authority to which a notice has been given under article 38(6)(a) shall submit to the Registrar at such time and in such form as he may require estimates of the net expenditure to be incurred in giving effect to this Scheme at the sampling point or points specified in such notice.

(2) Such local library authority may from time to time during the participating period submit to the Registrar claims in respect of the expenditure incurred, or estimated to have been incurred by it, and the Registrar shall be entitled to rely upon the accuracy of such claims and to make payments on account of the expenditure incurred by that authority in giving effect to the Scheme.



(3) The total amount payable by way of reimbursement to such local library authority shall be finally determined by the Registrar after examination of such audited financial statements and such books, records, documents, and accounts relating thereto as he may require; and any balance found after such final determination to be due by or to the Registrar in account with the local library authority in question shall be paid to or recovered from such local library authority.

(4) In reckoning the net expenditure for the purposes of this article and of article 43, the following shall be deducted from the gross expenditure incurred by a local library authority in connection with a sampling point—

- (a) any sum received in connection with the disposal (by sale, lease or otherwise) of any property or equipment purchased pursuant to sub-paragraph (b) of article 39;
- (b) any sum which it might reasonably be expected would have been received on such a disposal (whether or not there has been a disposal of the property or equipment in question);
- (c) any insurance monies received in respect of the loss or destruction of or damage to any such property or equipment;
- (d) an amount representing the appropriate proportion of the net cost (whether by way of purchase, lease, or otherwise) of any property or equipment which is used by a local library authority partly in connection with this Scheme and partly for other purposes not connected therewith:

Provided that where deductions are made under both sub-paragraphs (a) and (b) in respect of the same property or equipment, the aggregate deductions thereunder shall not exceed whichever is the greater of the sums mentioned in those sub-paragraphs.

(5) In determining the amount finally to be paid to or recovered from a local library authority pursuant to paragraph (3), account shall be taken of any expenditure reasonably incurred by that authority in discontinuing the sampling point.

## PART V

### CALCULATION AND PAYMENT OF PUBLIC LENDING RIGHT

#### **Determination of the sum due in respect of Public Lending Right**

**46.**—(1) For any financial year, the sum due by way of Public Lending Right in respect of a registered interest to the registered owner thereof shall be ascertained by reference to—

- (a) the product of the number of notional loans attributable to that interest (calculated in accordance with paragraph (4)) and 1.45p, and
- (b) the aggregate amount of that product and the like products in the case of all other registered interests which initially were registered interests of the same author.

(2) Subject to paragraph (3) the sum so due for the financial year shall be—

- (a) except where the following sub-paragraph applies, the product mentioned in paragraph (1) (a);
- (b) if the aggregate amount mentioned in paragraph (1)(b) exceeds £6,000, the product of

$$\frac{x}{y} \text{ and } \pounds 6,000$$

where—

x is the number of notional loans attributable to the interest in question, and  
y is the aggregate of that number and the number of notional loans attributable to all other registered interests which initially were registered interests of the same author.

(3) If the aggregate of the amounts determined in accordance with paragraph (2) in respect of each registered interest of the registered owner thereof is less than £1, the sum due in respect of the registered interest shall be nil.

(4) For the purposes of paragraphs (1) and (2)(b), the number of notional loans attributable to any registered interest in any financial year shall be calculated by ascertaining, in accordance with article 42(2), the number of notional loans of the book to which it relates which were made during the sampling year ending in that financial year, and shall be—

- (a) if the registered interest represents the whole of the Public Lending Right in respect of that book, the total notional loans of the book in question;
- (b) if the registered interest relates only to a share of the Public Lending Right in respect of that book, such proportion of the total notional loans of the book as the registered interest bears to the whole of the Public Lending Right in that book, fractions of a loan being disregarded;
- (c) if the Right in respect of that registered interest has been renounced in part, such proportion of the notional loans attributable to the registered interest under sub-paragraph (a) or (b), as the case may be, which the unrenounced share bears to the whole of the registered interest, fractions of a loan being disregarded;
- (d) nil, if the Right in respect of the registered interest has been wholly renounced for the financial year in question.

(5) For the purposes of paragraphs (1) and (2)(b), the references to interests which were initially registered interests of the same author include interests which, in pursuance of article 17(3), were registered in the name of his parent or guardian.

#### **Persons to whom the payment is due**

47. The person entitled to the Public Lending Right in respect of any registered book in any financial year shall be the registered owner thereof as at 30th June of that year.

#### **Right to be claimed**

48.—(1) No payment shall be made in respect of Public Lending Right unless that Right has been claimed by or on behalf of the person for the time being entitled.

(2) A claim in respect of the Right may be made for—

- (a) a specified period;
- (b) an unspecified period determinable by not less than three months written notice of termination given to the Registrar by or on behalf of the person for the time being entitled to the Right.

(3) A claim shall automatically lapse in the event of any change of ownership recorded on the Register, subsequent to first registration thereof, in respect of the Right to which the claim relates.

#### **Notification of entitlement and payment of sums due under the Scheme**

49.—(1) Any sum payable by way of Public Lending Right in respect of a registered interest, for any financial year, shall (unless sooner paid) fall due for payment on the last day of that year.

(2) Any such sum may be paid by cheque or warrant sent through the post directed to the registered address of the registered owner or, in the case of joint owners, to the registered address of the senior

owner (as defined in article 21(2)), or to such person and to such address as the owner or joint owners may direct by a written payment mandate to the Registrar, delivered at the registry, in the form set out in Schedule 4 or a form to the like effect; every such cheque or warrant shall be made payable to the order of the person to whom it is sent and any one of two or more joint owners may give a good receipt for any money due to them under this Scheme.

(3) The Registrar shall at the end of each financial year, or as soon as is reasonably practicable thereafter, inform each registered owner, by notice posted to his registered address of—

- (a) the notional number of lendings for that year of each book in respect of which he is a registered owner; and
- (b) the sum, if any, payable to him by way of Public Lending Right for each such book for the year in question.

(4) If, after the Registrar has notified the registered owner as provided in paragraph (3), the cheque or warrant for the sum referred to therein is not presented for payment and thereby lapses—

- (a) there shall be no further duty on the part of the Registrar to take steps to trace the registered owner and it shall be the responsibility of such owner to make application to the Registrar for payment; and
- (b) if at the end of six years from the date upon which a payment in respect of Public Lending Right becomes due no such application has been made by the person entitled thereto, the entitlement to such payment shall lapse.

#### **Power to call for information**

**50.** The Registrar may at any time require a statutory declaration or other sufficient evidence that an author or any registered owner is alive and is the person to whom money is payable under this Scheme, and may withhold payment until such declaration or evidence as he may require is produced.

#### **Interest**

**51.** No sum determined to be due under this Scheme shall carry interest.

### SCHEDULE 1

Article 14

#### INFORMATION TO BE PROVIDED IN CONNECTION WITH APPLICATIONS

### PART I

#### APPLICATION FOR FIRST REGISTRATION

1. The title of the book to which the application relates.
2. The name of every person named on the title page as author (within the meaning of article 4).
3. The true identity (if different from 2 above) of each such person, and his address.
4. The International Standard Book Number (if any) of the book.
5. A statement signed by each applicant that in each case the conditions as to eligibility specified in Part II of the Scheme are satisfied at the date of application, accompanied, when the applicant has not previously made an application under article 17 of this Scheme, by a certificate signed by a Member of Parliament, Justice of the Peace, Minister of Religion, lawyer, bank officer, school

teacher, police officer, doctor or other person accepted by the Registrar as being of similar standing and stating that he has known the applicant for at least two years, that he is not related to the applicant and that to the best of his knowledge the contents of the statement by the applicant are true.

6. In the case of a work by more than one author—
- (a) a statement signed by all the authors who are alive and can be traced at the date of application specifying—
    - (i) the agreed share in the Public Lending Right of each author, and
    - (ii) whether any author is translator, editor, compiler or, if any author is dead or untraced at the date of application, illustrator of the book and, if so, whether he is also an author of the book in another capacity, or
  - (b) a statement by the applicant that he is translator, editor or compiler of the book and that his claim to the Public Lending Right in respect thereof is limited to the percentage prescribed in article 9A(2) or (3) as the case may be, or
  - (c) where one of the authors of the work is a translator, a statement signed by the other author or, if more than one, all the other authors who are alive and can be traced at the date of application specifying—
    - (i) that another author of the book who is not a party to the application is a translator,
    - (ii) that the claim to Public Lending Right in respect thereof is limited to that share to which the translator is not entitled, and
    - (iii) where there is more than one author other than the translator
      - (aa) the agreed share of each such author in that share of the Public Lending Right to which the translator is not entitled, and
      - (bb) whether any such author is editor or compiler or, if any such author is dead or untraced at the date of application, illustrator of the book and, if so, whether he is also an author of the book in another capacity.

7. Where an editor or compiler of a book wishes to claim, or claim an equal share of more than twenty per cent of the Public Lending Right in accordance with article 9A(3), particulars indicating evidence of the percentage that he has, or where there are two or more editors or compilers that they have jointly, contributed to the contents of the book.

8. In the case of an author not of full age, a declaration by the applicant that he is the parent or guardian, as the case may be, of the author, and a copy of the author's birth certificate.

## PART II

### APPLICATION FOR TRANSFER OF REGISTERED INTEREST

1. The title of the book.
2. The International Standard Book Number (if any) of the book.
3. The name and address of the transferor.
4. The name and address of the transferee.
5. An undertaking by the transferee to furnish to the Registrar, whenever so required, proof that the author is still alive.

## PART III

### APPLICATION FOR RENUNCIATION OF REGISTERED INTEREST

1. The name and address of the person renouncing.
2. The title of the book to which the renunciation relates.
3. The International Standard Book Number (if any) of the book.
4. The extent of the Right being renounced.
5. The period in respect of which the Right is renounced.

### SCHEDULE 2

Articles 36—38

#### GROUPING SERVICE POINTS

Service points shall be grouped according to local library authority areas as follows—

#### GROUP A

Those within the areas of the following non-metropolitan counties—

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Bedfordshire	Essex	Oxfordshire
Berkshire	Hertfordshire	Suffolk
Buckinghamshire	Kent	Surrey
Cambridgeshire	Norfolk	West Sussex
East Sussex	Northamptonshire	

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#### GROUP B

Those within the areas of the following non-metropolitan counties—

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Avon	Hampshire	Somerset
Cornwall	Hereford & Worcester	Staffordshire
Devon	The Isle of Wight	Warwickshire
Dorset	The Isles of Scilly	Wiltshire
Gloucestershire	Shropshire	

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#### GROUP C

Those within the areas of the following non-metropolitan counties—

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Cheshire	Humberside	North Yorkshire
Cleveland	Lancashire	Nottinghamshire
Cumbria	Leicestershire	

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Statutory Instruments are not carried in their revised form on this site.

Derbyshire	Lincolnshire
Durham	Northumberland

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**GROUP D**

Those within the areas of the metropolitan districts of England.

**GROUP E**

Those within the area of Greater London.

**GROUP F**

Those in Wales.

**GROUP G**

Those in Scotland.

**GROUP H**

Those in Northern Ireland.

SCHEDULE 4

Article 49

PAYMENT MANDATE

“Please forward, until further notice, all sums that may from time to time become due to me/us or the survivor(s) of us by way of Public Lending Right to *[here state full name and address of the bank, firm or person to whom payments are to be sent]* or *[where payment is to be made to a Bank]* to such other Branch of that Bank as the Bank may from time to time request. Your compliance with this request shall discharge the Registrar’s liability in respect of such sums.”

**Date** ..... **Signature** .....

**Name** .....  
**(Block Capitals)**

**Address** .....

.....

.....

SCHEDULE 5

Article 5

SPECIFIED COUNTRIES

Federal Republic of Germany  
United Kingdom.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force on 22nd December 1988 variations to the Public Lending Right Scheme 1982.

Appendix 1 to the Order sets out the variations. Apart from consequential changes to the Arrangement of Scheme (paragraph 1) the principal changes are as follows.

Provision is made for Public Lending Right to be registered by the personal representatives of a deceased author if the author would have been eligible to register the Right had he made an application on the date of his death and if certain requirements as to the eligibility of the book are met (paragraphs 2, 4, 5, 6, 8, 9 and 11).

Translators are to be treated as eligible authors if they are named on the cover or title page verso of the book if the translated text amounts to at least half the books contents (paragraph 3).

Amendments are made to the way in which the Public Lending Right is to be apportioned between authors where a book has two or more authors, principally where one of the authors is dead or cannot be traced (paragraph 7).

The requirement for authors to make a joint application with the translator for registration of Public Lending Right in respect of a translated book is removed (paragraphs 10 and 16).

The way in which the number of loans of a book is ascertained are changed. In particular, certain mobile libraries may be designated as sampling points for this purpose; the number of groups from which sampling points are selected and the overall number of sampling points is increased; and the way in which loans which are to be disregarded in calculating the notional loans of each book in respect of which Public Lending Right is payable is altered (paragraphs 2, 12, 13, 14, and 17).

The sum attributable to each qualifying loan for the purpose of calculating the amount payable in respect of loans of a particular book is increased from 1.12p to 1.45p; the maximum amount payable to any person is increased from £5,000 to £6,000; and the entitlement of the owner of a registered interest to a payment is altered so that entitlement only arises if the aggregate of the payments in respect of all his registered interests exceeds £1 (paragraph 15).

Appendix 2 to the Order sets out the Public Lending Right Scheme 1982 as it has effect on and after the date on which these variations are brought into force.